

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

Roger Allen Dyke,	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 6:19-cv-1521-TMC
v.	)	
	)	<b>ORDER</b>
Dr. John McCree, Nurse Burdetter,	)	
Nurse Jones, Nurse Hatfield,	)	
Lieutenant Brazzy, Captain Lisa Young,	)	
Nurse Troll, Nurse Cooper,	)	
	)	
Defendant.	)	

Plaintiff is a state prisoner proceeding *pro se* and *in forma pauperis*. In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this action was referred to a magistrate judge for pretrial handling. On June 12, 2019, the magistrate judge entered an order authorizing service of process and informing Plaintiff that he was responsible for providing sufficient information to identify the defendants on the USM-285 forms. (ECF No. 13 at 2). The order further cautioned that “[a]n Unserved Defendant may be dismissed as a party to this case if not served within the time limit governed by Rule 4(m) and this Order.” *Id.* at 3. On July 23, 2019, the summons were returned unexecuted as to Lieutenant Brazzy and Nurse Cooper. (ECF No. 17). The magistrate judge issued a subsequent order allowing Plaintiff until August 14, 2019, to return new summons and Forms USM-285 for Lieutenant Brazzy and Nurse Cooper. (ECF No. 19). In that order, the magistrate judge warned Plaintiff that failure to respond to the order or to provide new summons and Forms USM-285 as to Lieutenant Brazzy and Nurse Cooper may result in the magistrate judge recommending dismissal as to those defendants without prejudice. *Id.* at 2. Plaintiff did not respond to the court order, nor did he provide new summons and Forms USM-285. Before the court is the magistrate judge’s Report and Recommendation (“Report”),

recommending that Lieutenant Brazzy and Nurse Cooper be dismissed from the case pursuant to Fed. R. Civ. P. 4(m). (ECF No. 44). Plaintiff was advised of his right to file objections to the Report. *Id.* at 4. However, Plaintiff filed no objections to the Report, and the time to do so has now run.

The Report has no presumptive weight and the responsibility to make a final determination in this matter remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). In the absence of objections, this court is not required to provide an explanation for adopting the Report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a careful and thorough review of the record under the appropriate standards, as set forth above, the court adopts the magistrate judge’s Report (ECF No. 44), which is incorporated herein by reference. Accordingly, Lieutenant Brazzy and Nurse Cooper are **DISMISSED** from the case.\*

**IT IS SO ORDERED.**

s/Timothy M. Cain  
United States District Judge

Anderson, South Carolina  
October 25, 2019

**NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

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\* Such dismissal is without prejudice.